

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

WILLIAM A. KOCH,

Plaintiff,

v.

THE BURLINGTON NORTHERN &  
SANTA FE RAILWAY COMPANY,

Defendant.

Case No. C05-1989RSL

ORDER GRANTING MOTION  
FOR LEAVE TO FILE MOTION  
FOR SUMMARY JUDGMENT

This matter comes before the Court on a motion filed by the defendant, BNSF Railway Company ("BNSF"), for leave to file its motion for summary judgment. (Dkt. #29). The Court set the deadline to file dispositive motions for October 5, 2006. Defendant's counsel has explained that he filed the motion one day late because he was out of the office from September 24, 2006 through October 4, 2006 due to a medical emergency.

The Court's Minute Order Setting Trial & Related Dates stated that the Court would alter the deadlines "only upon good cause shown." The issue is a close call because of defendant's pattern of delays and missed deadlines in this case. Furthermore, although defendant filed its motion for summary judgment on October 6, it subsequently filed an "Amended Motion" on

1 October 11, 2006, six days after the deadline.<sup>1</sup> Although personal emergencies are inevitable,  
2 timely communication with the Court and co-counsel is key to allowing the efficient and orderly  
3 consideration of pending matters. Nevertheless, the Court grants the motion based on counsel's  
4 illness, the fact that the delay was short, and its preference for avoiding unnecessary trials.<sup>2</sup>  
5 Because the Court recently sanctioned BNSF in connection with plaintiff's motion to compel,  
6 the Court will not sanction BNSF for the additional delay. However, the Court expects defense  
7 counsel and their firm to be aware of the delays in this case and to comply strictly with all  
8 remaining deadlines in this case.

9 For the foregoing reasons, defendant's motion for leave to file its motion for summary  
10 judgment (Dkt. #29) is GRANTED.

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12 DATED this 17th day of October, 2006.

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16 Robert S. Lasnik  
17 United States District Judge  
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24 <sup>1</sup> The Court did not renote the motion because the November 3, 2006 noting date  
25 remained correct.

26 <sup>2</sup> The Court expresses no opinion on the merits of BNSF's dispositive motion, which it  
27 has not yet reviewed.